

108TH CONGRESS
2D SESSION

H. R. 3846

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2004

Received

AN ACT

To authorize the Secretary of Agriculture and the Secretary of the Interior to enter into an agreement or contract with Indian tribes meeting certain criteria to carry out projects to protect Indian forest land.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Tribal Forest Protec-
3 tion Act of 2004”.

4 **SEC. 2. TRIBAL FOREST ASSETS PROTECTION.**

5 (a) DEFINITIONS.—In this section:

6 (1) FEDERAL LAND.—The term “Federal land”
7 means—

8 (A) land of the National Forest System (as
9 defined in section 11(a) of the Forest and
10 Rangeland Renewable Resources Planning Act
11 of 1974 (16 U.S.C. 1609(a))) administered by
12 the Secretary of Agriculture, acting through the
13 Chief of the Forest Service; and

14 (B) public lands (as defined in section 103
15 of the Federal Land Policy and Management
16 Act of 1976 (43 U.S.C. 1702)), the surface of
17 which is administered by the Secretary of the
18 Interior, acting through the Director of the Bu-
19 reau of Land Management.

20 (2) INDIAN FOREST LAND OR RANGELAND.—
21 The term “Indian forest land or rangeland” means
22 land that—

23 (A) is held in trust by, or with a restriction
24 against alienation by, the United States for an
25 Indian tribe or a member of an Indian tribe;
26 and

1 (B)(i)(I) is Indian forest land (as defined
2 in section 304 of the National Indian Forest
3 Resources Management Act (25 U.S.C. 3103));
4 or

5 (II) has a cover of grasses, brush, or any
6 similar vegetation; or

7 (ii) formerly had a forest cover or vegeta-
8 tive cover that is capable of restoration.

9 (3) INDIAN TRIBE.—The term “Indian tribe”
10 has the meaning given the term in section 4 of the
11 Indian Self-Determination and Education Assistance
12 Act (25 U.S.C. 450b).

13 (4) SECRETARY.—The term “Secretary”
14 means—

15 (A) the Secretary of Agriculture, with re-
16 spect to land under the jurisdiction of the For-
17 est Service; and

18 (B) the Secretary of the Interior, with re-
19 spect to land under the jurisdiction of the Bu-
20 reau of Land Management.

21 (b) AUTHORITY TO PROTECT INDIAN FOREST LAND
22 OR RANGELAND.—

23 (1) IN GENERAL.—Not later than 120 days
24 after the date on which an Indian tribe submits to
25 the Secretary a request to enter into an agreement

1 or contract to carry out a project to protect Indian
2 forest land or rangeland (including a project to re-
3 store Federal land that borders on or is adjacent to
4 Indian forest land or rangeland) that meets the cri-
5 teria described in subsection (c), the Secretary may
6 issue public notice of initiation of any necessary en-
7 vironmental review or of the potential of entering
8 into an agreement or contract with the Indian tribe
9 pursuant to section 347 of the Department of the
10 Interior and Related Agencies Appropriations Act,
11 1999 (16 U.S.C. 2104 note; Public Law 105–277)
12 (as amended by section 323 of the Department of
13 the Interior and Related Agencies Appropriations
14 Act, 2003 (117 Stat. 275)), or such other authority
15 as appropriate, under which the Indian tribe would
16 carry out activities described in paragraph (3).

17 (2) ENVIRONMENTAL ANALYSIS.—Following
18 completion of any necessary environmental analysis,
19 the Secretary may enter into an agreement or con-
20 tract with the Indian tribe as described in paragraph
21 (1).

22 (3) ACTIVITIES.—Under an agreement or con-
23 tract entered into under paragraph (2), the Indian
24 tribe may carry out activities to achieve land man-
25 agement goals for Federal land that is—

1 (A) under the jurisdiction of the Secretary;
2 and

3 (B) bordering or adjacent to the Indian
4 forest land or rangeland under the jurisdiction
5 of the Indian tribe.

6 (c) SELECTION CRITERIA.—The criteria referred to
7 in subsection (b), with respect to an Indian tribe, are
8 whether—

9 (1) the Indian forest land or rangeland under
10 the jurisdiction of the Indian tribe borders on or is
11 adjacent to land under the jurisdiction of the Forest
12 Service or the Bureau of Land Management;

13 (2) Forest Service or Bureau of Land Manage-
14 ment land bordering on or adjacent to the Indian
15 forest land or rangeland under the jurisdiction of the
16 Indian tribe—

17 (A) poses a fire, disease, or other threat
18 to—

19 (i) the Indian forest land or rangeland
20 under the jurisdiction of the Indian tribe;
21 or

22 (ii) a tribal community; or

23 (B) is in need of land restoration activities;

24 (3) the agreement or contracting activities ap-
25 plied for by the Indian tribe are not already covered

1 by a stewardship contract or other instrument that
2 would present a conflict on the subject land; and

3 (4) the Forest Service or Bureau of Land Man-
4 agement land described in the application of the In-
5 dian tribe presents or involves a feature or cir-
6 cumstance unique to that Indian tribe (including
7 treaty rights or biological, archaeological, historical,
8 or cultural circumstances).

9 (d) NOTICE OF DENIAL.—If the Secretary denies a
10 tribal request under subsection (b)(1), the Secretary may
11 issue a notice of denial to the Indian tribe, which—

12 (1) identifies the specific factors that caused,
13 and explains the reasons that support, the denial;

14 (2) identifies potential courses of action for
15 overcoming specific issues that led to the denial; and

16 (3) proposes a schedule of consultation with the
17 Indian tribe for the purpose of developing a strategy
18 for protecting the Indian forest land or rangeland of
19 the Indian tribe and interests of the Indian tribe in
20 Federal land.

21 (e) PROPOSAL EVALUATION AND DETERMINATION
22 FACTORS.—In entering into an agreement or contract in
23 response to a request of an Indian tribe under subsection
24 (b)(1), the Secretary may—

25 (1) use a best-value basis; and

1 (2) give specific consideration to tribally-related
2 factors in the proposal of the Indian tribe, includ-
3 ing—

4 (A) the status of the Indian tribe as an In-
5 dian tribe;

6 (B) the trust status of the Indian forest
7 land or rangeland of the Indian tribe;

8 (C) the cultural, traditional, and historical
9 affiliation of the Indian tribe with the land sub-
10 ject to the proposal;

11 (D) the treaty rights or other reserved
12 rights of the Indian tribe relating to the land
13 subject to the proposal;

14 (E) the indigenous knowledge and skills of
15 members of the Indian tribe;

16 (F) the features of the landscape of the
17 land subject to the proposal, including water-
18 sheds and vegetation types;

19 (G) the working relationships between the
20 Indian tribe and Federal agencies in coordi-
21 nating activities affecting the land subject to
22 the proposal; and

23 (H) the access by members of the Indian
24 tribe to the land subject to the proposal.

1 (f) NO EFFECT ON EXISTING AUTHORITY.—Nothing
2 in this Act—

3 (1) prohibits, restricts, or otherwise adversely
4 affects the participation of any Indian tribe in stew-
5 ardship agreements or contracting under the author-
6 ity of section 347 of the Department of the Interior
7 and Related Agencies Appropriations Act, 1999 (16
8 U.S.C. 2104 note; Public Law 105–277) (as amend-
9 ed by section 323 of the Department of the Interior
10 and Related Agencies Appropriations Act, 2003 (117
11 Stat. 275)) or other authority invoked pursuant to
12 this Act; or

13 (2) invalidates any agreement or contract under
14 that authority.

15 (g) REPORT.—Not later than 4 years after the date
16 of enactment of this Act, the Secretary shall submit to
17 Congress a report that describes the Indian tribal requests
18 received and agreements or contracts that have been en-
19 tered into under this Act.

Passed the House of Representatives June 21, 2004.

Attest:

JEFF TRANDAHL,

Clerk.